IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 3233 of 2000

to

FIRST APPEAL No 3242 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE Y.B.BHATT
and
Hon'ble MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

NEW INDIA ASSURANCE CO LTD.
Versus
HEIRS OF DECD.VIJAYBHAI HARIRAMBHAI RAMAVAT

Appearance:
MR PV NANAVATI for Appellant No. 1
MR VIBHUTI NANAVATI for Appellant No. 1
..... for Respondent No. 1

CORAM : MR.JUSTICE Y.B.BHATT
and
MR.JUSTICE M.C.PATEL

Date of decision: 31/07/2001

COMMON ORAL JUDGEMENT

(Per : MR.JUSTICE Y.B.BHATT)

1. The respondents - original claimants are absent, though served with a notice for summary disposal of the appeals. Heard the learned counsel for the appellant. These are appeals under Section 173 of the Motor Vehicles Act, 1988, at the instance of the insurer of the vehicle which is allegedly involved in the accident in question.

2. The appellant challenges herein the order passed by the Tribunal under Section 140 of the said Act in Motor Accident Claim Petition No.313 of 1997. Obviously, this award is in the nature of an interim award which is subject to adjustment against the final award which may be passed in the main claim petition viz. Motor Accident Claim Petition No.313 of 1997, pending before the Motor Accident Claims Tribunal (Main) at Amreli. This principle is established by the Supreme Court decision in the case of The Oriental Insurance Co. Ltd. vs. Hansrajbhai V. Kodala, reported in 2001 (4) JT 477.

3. The original claimant shall, however, file an undertaking before the Tribunal within four weeks of the service of this order on the claimant to the effect that the main claim petition shall not be abandoned, shall not be withdrawn and shall not be permitted to be dismissed for default or for any other cause, and that the claimant shall obtain a decision on merits in the said claim petition. The amount awarded under the impugned order shall be adjusted against the final award in the main claim petition.

4. On the said undertaking being filed, the amount of the impugned award may be withdrawn by the original claimant on furnishing security to the satisfaction of the Tribunal.

5. Subject to the observations and directions hereinabove, the above appeals are dismissed with no order as to costs.

6. The amount deposited in the appeals, if any, with the Registry is directed to be transmitted to the Tribunal forthwith i.e. to say, not later than 7th August, 2001.

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